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IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH, CENTRAL DIVISION

W. CLARK APOSHIAN,

Plaintiff,

vs.

MATTHEW WHITAKER, Acting Attorney
General of the United States, et al.,

Defendants.

Case No. 2:19-cv-00037-JNP

**MOTION FOR STAY OF
PROCEEDINGS IN LIGHT OF
LAPSE OF APPROPRIATIONS**

District Judge Jill N. Parrish

Defendants hereby move for a stay of all proceedings in the above-captioned case, following receipt by mail of the Complaint, ECF No. 2, and Motion for Preliminary Injunction, ECF No. 10. Defendants submit the following in support of this request:

1. At the end of the day on December 21, 2018, the appropriations act that had been funding the Department of Justice, including the Bureau of Alcohol, Tobacco, Firearms, and Explosives, expired and appropriations to the Department lapsed. The Department does not know when Congress will restore funding.
2. Absent an appropriation, Department of Justice attorneys and employees are prohibited from working, even on a voluntary basis, except in very limited circumstances

including “emergencies involving the safety of human life or the protection of property.” 31 U.S.C. § 1342.

3. This Court has recognized the limitations on the practice of the Department of Justice during the lapse in appropriations. On January 8, 2019, the Court issued *Court Operations During the Government Shut-down* (<https://www.utsd.uscourts.gov/node/399>), which states, “Civil hearings and trials involving the United States will be postponed during [the shutdown] period.”

4. If this motion for a stay is granted, Defendants’ counsel will notify the Court as soon as Congress has appropriated funds for the Department. Defendants request that, at that point, all current deadlines for the parties be extended commensurate with the duration of the lapse in appropriations.

5. In accordance with this Court’s Standing Order, Defendants’ counsel has consulted with Plaintiff’s counsel, who has stated that Plaintiff opposes the relief sought in this motion in light of the March 26, 2019, effective date of the Final Rule challenged in this action.

For these reasons, Defendants request that the Court stay all proceedings in this case until Department of Justice attorneys are permitted to resume their usual civil litigation functions.

A proposed order is submitted herewith.

DATED this 24th day of January, 2019.

JOHN W. HUBER
United States Attorney

/s/ Jeffrey E. Nelson
JEFFREY E. NELSON
Assistant United States Attorney